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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,769	07/23/2003	Brian G. Hoover	13621-43433	7825

7590 12/27/2005

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EXAMINER

VARGOT, MATHIEU D

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/625,769

Applicant(s)

HOOVER, BRIAN G.

Examiner

Mathieu D. Vargot

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-33 is/are pending in the application.
- 4a) Of the above claim(s) 16 and 18-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-15, 17, 32 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/12, 2/22/05.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

1.Applicant's election without traverse of Group I, species I in the reply filed on September 12, 2005 is acknowledged.

2.Claims 6-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 6-12 and 15, applicant refers to "radiation incident" (claim 6) and "said/the step of irradiating" (claims 7-12 and 15). However, claim 1 sets forth two separate steps of irradiation—one to form the pores and one to provide surface relief. Applicant needs to maintain a clear line of demarcation in the claims as to which irradiation step is being recited. As it stands, the above-listed claims are indefinite in that it is not clear which irradiation step is being further defined in the dependent claims so rejected.

3.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-15, 17, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumakura et al (col. 2, lines 35-47) in view of Bawa et al.

The primary reference discloses the basic claimed method of making a porous contact lens (ie, an optical device for insertion into the cornea, since the contact lens fits against the cornea) by forming a polymer film (the lens), forming pores in the film with an ion irradiation and widening the pores using an etching step, Kumakura et al essentially lacking the aspect of providing a surface relief in the film/lens by irradiation. Bawa et al

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teaches that such is conventional in the contact lens art and such would have been an obvious modification to the process of the primary reference to facilitate the formation of bifocal corrections on the surface of the lens without grinding. See Bawa et al, col. 1, lines 26-32. Bawa et al also uses a mask (22 in Figs. 1 and 2) to control the irradiation which provides the surface relief. It is submitted that the exact shape of the relief, and hence the mask, would have been obvious dependent on the exact structure desired on the lens. Also, employing an ion beam as the irradiation to form the surface relief would have been obvious over the irradiation taught in Bawa et al. While reducing the transparency of portions of the lens is not explicitly taught, ion implantation is well known and it would have been obvious to have modified the irradiation methods taught in the applied references to perform an ion implantation to render desired portions of the lens opaque. Employing multiple masks to provide the pores would have been an obvious modification over the process disclosed in Kumakura et al, as would have making the pores large enough into permit the growth of corneal tissue therethrough.


4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni, can be reached on 571 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot
November 30, 2005


Mathieu D. Vargot
Primary Examiner
Art Unit 1732

11/30/05